

**MEDICAL EXAMINING BOARD
MINUTES
OCTOBER 21, 2009**

PRESENT: Carolyn Bronston, Jude Genereaux, Dr. Jerold Harter, Dr. Sujatha Kailas, Dr. Jack Lockhart (via telephone), Dr. Raymond Mager, Dr. Ian Munro (arrived 8:16 a.m.), Dr. Gene Musser, Dr. Sandra Osborn, Dr. Bhupinder Saini, Dr. Sheldon Wasserman (arrived 8:17 a.m.)

EXCUSED: Dr. Suresh Misra

STAFF: Gail Sumi, Division Administrator; Michael Berndt, General Counsel; Karen Rude-Evans, Bureau Assistant; other DRL staff

GUESTS: Anne Hletko, Council on Physician Assistants; Judy Warmuth, Wisconsin Hospital Association (WHA); Colleen Meloy, Corneille Law Group; Eric Jensen, WI Society of Anesthesiologists, WI Academy of Physician Assistants; Randal N. Arnold, Hinshaw & Culbertson; Kevin Lang, MD; Pamela Lang; Jeremy Levin, RWHC

CALL TO ORDER

Gene Musser, Chair, called the meeting to order at 8:08 a.m. a quorum of nine (9) members was present.

APPROVAL OF AGENDA

Amendments to the Agenda:

- Item “B” (Open Session) Minutes of September 16, 2009, insert after page 6
- After Item “E” (Open Session) “FSMB Update” – ADD:
 - Request for Variance of the Supervision of Physician Assistant in Med8.10 from Zenoun O. Abouzelam, MD
- After Item “K” (Closed Session) “Deliberation of Issuance of Complaint in the Matter of 08 MED 131” – ADD:
 - Deliberation of Issuance of Complaint in the Matter of 06 MED 330
 - Deliberation of Issuance of Complaint in the Matter of 08 MED 286
- After Item “N” (Closed Session) “Deliberation of Petition for Summary Suspension” – ADD:
 - Monitoring Report
 - Consideration of full licensure – Shelly Johnson, MD
 - Consideration of full licensure – William Ubbink, RCP
 - Request for Stay of Suspension – Raymond Kozial, MD
 - Request for Modification of Order – David Hanes, DO
- On Page 185 (Closed Session), in the first paragraph, delete “Wisconsin Board of Nursing” and insert “Wisconsin Medical Examining Board.”

MOTION: Sandra Osborn moved, seconded by Sujatha Kailas, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF SEPTEMBER 16, 2009

MOTION: Sujatha Kailas moved, seconded by Sandra Osborn, to approve the minutes of September 16, 2009 as published. Motion carried unanimously.

**PRESENTATIONS OF PROPOSED STIPULATIONS, FINAL
DECISIONS AND ORDERS**

ELLIS AVNER, MD

DOE attorney James Polewski presented a Proposed Stipulation and Final Decision and Order in the matter of disciplinary proceedings against Ellis Avner, MD. This matter will be deliberated in closed session.

CHARLES VACLAVIK, DO

DOE attorney Jeanette Lytle presented a Proposed Stipulation and Final Decision and Order in the matter of disciplinary proceedings against Charles Vaclavik, DO. Respondent's attorney, Colleen Meloy, was also present to answer questions from the Board. This matter will be deliberated in closed session.

**PRESENTATION OF MOTION TO CLOSE THE HEARING IN THE MATTER
OF THE DISCIPLINARY PROCEEDINGS AGAINST
JOHN P KISER, MD**

DOE attorney Jim Polewski presented the motion to close the hearing in the matter of the disciplinary proceedings against John P. Kiser, MD. This matter will be deliberated in closed session.

PRESENTATION OF PETITIONS FOR SUMMARY SUSPENSION

**KEVIN LANG, MD
09 MED 102**

DOE attorney Sandra Nowak and respondent's attorney Randal Arnold appeared to present oral arguments regarding the petition for summary suspension concerning Kevin Lang, MD. This matter will be deliberated in closed session.

**JOSEPH A BESSO, JR, MD
09 MED 317**

DOE attorney Sandra Nowak appeared to present oral arguments regarding the petition for summary suspension concerning Joseph A. Besso Jr., MD. This matter will be deliberated in closed session.

ADMINISTRATIVE REPORT

Update on MEB Bureau Staff Recruitment

Hector Colon introduced the new MEB Bureau staff and updated the Board regarding the recruitment of staff to fill the remaining vacancies.

Review and Approval of 2010 Meeting Dates

The Board reviewed the proposed 2010 meeting dates.

MOTION: Carolyn Bronston moved, seconded by Jerold Harter, to approve the 2010 meeting dates as presented. Motion carried unanimously.

Discussion and Approval of 2010 Screening Panel (2:00 p.m. on the day prior to the Board Meeting) and Exam Panel Members (12:45 p.m. on the day of the Board Meeting.)

The Board reviewed the 2010 screening panel dates and approved them by consensus.

Screening Panels assignments are:

- January – Carolyn Bronston, Ian Munro, Jude Genereaux
- February – Carolyn Bronston, Jude Genereaux, Sheldon Wasserman
- March – Jude Genereaux, Ian Munro, Sujatha Kailas
- April – Carolyn Bronston, Gene Musser, Raymond Mager
- May – Jude Genereaux, Jack Lockhart, Sheldon Wasserman
- June - Carolyn Bronston, Bhupinder Saini, Raymond Mager

Oral Exams Dates and Assignments

Oral Exams assignments are:

- January – Sandra Osborn, Ian Munro, Jack Lockhart
- February – Raymond Mager, Sujatha Kailas
- March – Jack Lockhart, Ian Munro, Sheldon Wasserman
- April – Jack Lockhart, Gene Musser, Bhupinder Saini
- May – Jack Lockhart, Sujatha Kailas, Sheldon Wasserman
- June – Jack Lockhart, Raymond Mager, Gene Musser

Four examiners are needed for each exam. Additional assignments will be discussed at the November 18th Board meeting.

MEB in Marshfield for the November 18 Meeting

Hotel accommodations have been arranged and details will be emailed to the Board members. Board members, DRL staff and possibly several Marshfield Clinic staff will meet for dinner on November 17th. This will be an informal gathering and no Board business will be discussed. Marshfield Clinic has offered to give a tour of their facility following the Board meeting. Carolyn Bronston and Bhupinder Saini will not be able to attend this meeting.

Consideration of the SPEX and COMVEX Exams

Susan Bird, DRL Examinations Specialists, gave a presentation on the SPEX and COMVEX exams. Applicants for licensure are currently screened and an oral examination is required for a variety of reasons outlined in MED 1.06. There are concerns that our oral exam process may not adequately screen out candidates who are not current in medical knowledge or practice.

23 states, including Wisconsin, do not require a national level competency exam for reinstatement or endorsement after lapse of practice or lapse of board certification, following disciplinary procedures or following a defined length of time since passage of a national licensing exam.

25 states, including the District of Columbia, require some type of national level competency exam either at the discretion of the board or if certain conditions for licensure are not met. The majority of these states rely on board discretion with defined conditional guidelines.

The most common national level exams required are the SPEX for medical doctors and the COMVEX for doctors of osteopathy.

After discussion, the Board asked Susan Bird to email more information on her research. Mike Berndt and Susan Bird will work together to come up with some draft language for a possible rule change to allow for the Board's discretion to require additional examinations.

Elections for 2010 Board Officers: Chairperson, Vice Chairperson and Secretary

NOMINATION: Ian Munro nominated Sujatha Kailas for the position of Board Chair.

Gene Musser called three (3) times for other nominations. No additional nominations were made.

Sujatha Kailas was elected for the office of Board Chair.

NOMINATION: Carolyn Bronston nominated Sandra Osborn for the position of Vice Chair.

Gene Musser called three (3) times for other nominations. No additional nominations were made.

Sandra Osborn was elected for the office of Vice Chair.

NOMINATION: Sujatha Kailas nominated Ian Munro for the position of Secretary.

Gene Musser called three (3) times for other nominations. No additional nominations were made.

Ian Munro was re-elected for the office of Secretary.

2010 ELECTION RESULTS	
Board Chair	Sujatha Kailas
Vice Chair	Sandra Osborn
Secretary	Ian Munro

UPDATE OF AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) GRANT PROGRAM: REDUCING OR ELIMINATING BARRIERS TO PHYSICIAN LICENSING AND TELEMEDICINE PRACTICE

Gail Sumi said the Department is submitting a letter indicating we want to apply for the grant and Marshfield Clinic will be assisting in this process.

SCREENING PANEL REPORT

Sandra Osborn reported the Screening Panel reviewed 34 cases, opened 8 and sent one 10-day letter.

LEGISLATIVE LIAISON REPORT

Assembly Bill 227, Related to: directing the Pharmacy Examining Board to create a program to monitor the dispensing of prescription drugs and requiring the exercise of rule-making authority. As of 10/8/09 Passed the Assembly on a Vote of 89-6. Is in the Senate Health Committee

No updates at this time.

Assembly Bill 267/Senate Bill 184, Related to: Licenses and Limited X-ray Machine Operator Permits to Engage in the Practice of Radiography and Creating a Radiography Examining Board. As of 10/8/09 AB 267 Passed the Assembly Health Committee and Referred to the Joint Finance Committee

No updates at this time.

Assembly Bill 273/Senate Bill 191, Related to: Podiatrists Licensing and the Podiatrists Affiliated Credentialing Board. As of 10/8/09 Passed the Assembly on a Voice Vote and Referred to the Senate Health Committee

This did pass the Senate on October 20, 2009 by voice vote. The two bills will be reconciled and will go to the Governor.

Assembly Bill 275, Related to: the Physical Therapists Affiliated Credentialing Board. As of 10/8/09 Public Hearing held in the Assembly Health Committee on 9/30/09

This was in executive session on October 14, 2009 and will go to the assembly floor.

Assembly Bill 440/Senate Bill 115, Related to: Licensure of Dietitians. As of 10/8/09 Public Hearing Held on SB 115

No updates at this time.

UPDATE ON PENDING ISSUES

Chelation Informed Consent Rule

No updates at this time.

GME For Licensure - 1 To 3 Years

No updates at this time.

Criminal Background Checks Telemedicine

No updates at this time.

JANUARY 2010 REGULATORY DIGEST – SUGGESTIONS FOR ARTICLES

The target publication date for the Regulatory Digest is January 10, 2010. Articles for the Regulatory digest need to be submitted to Dr. Kailas before the end of November.

FSMB UPDATE – GENE MUSSER, SUJATHA KAILAS AND SANDRA OSBORN

FSMB Request to Submit Names of Individuals for the Nominating Committee to Consider as Candidates for Elective Office

The FSMB's Nominating Committee requests that member boards and fellows submit names of individuals for the Nominating Committee to consider as candidates for elective office. Elections will be held at the FSMB's April 24, 2010 House of Delegates annual business meeting.

APPLICATION ISSUES THAT MAY BE RECEIVED IN THE BUREAU AFTER MAILING OF THE AGENDA

None.

EXAMINATION ISSUES THAT MAY BE RECEIVED IN THE BUREAU AFTER MAILING OF THE AGENDA

none

CONTINUING EDUCATION ISSUES THAT MAY BE RECEIVED IN THE BUREAU AFTER MAILING OF THE AGENDA

none

PRACTICE QUESTIONS

The Respiratory Care Practitioners Examining Council Asked the MEB to Consider Whether a Practitioner Transferring Patients Across State Lines Needs to be Licensed in Both States?

The Board discussed the issue of whether or not a respiratory care practitioner who is transferring patients across state lines needs to be licensed in both states.

MOTION: Ian Munro moved, seconded by Jerold Harter, that a respiratory care therapist who is licensed in another state and who accompanies a patient across state lines into Wisconsin, is under the direction of the Wisconsin licensed physician and the

respiratory care therapist does not need to be licensed in Wisconsin. Motion carried unanimously.

**REQUEST FROM FOR VARIANCE ON MED 8.10 TO SUPERVISE THREE
PHYSICIAN ASSISTANTS - ZENOUN ABOUZELAM, MD**

The Board reviewed the request from Zenoun Abouzelam, MD, to supervise three physician assistants.

MOTION: Sheldon Wasserman moved, seconded by Bhupinder Saini, to deny the variance request of Zenoun Abouselam, MD, to supervise three physician assistants. Motion passed by majority, 8 to 2.

**PRACTICE QUESTIONS RECEIVED IN THE BUREAU AFTER MAILING OF
THE AGENDA**

none

**APPEARANCES FROM REQUESTS RECEIVED OR RENEWED AFTER
MAILING OF THE AGENDA**

none

INFORMATIONAL ITEMS

none

OTHER BUSINESS

none

PUBLIC COMMENTS

none

CONVENE TO CLOSED SESSION

MOTION: Sujatha Kailas moved, seconded by Sandra Osborn, to adjourn to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g) for the purpose of conducting appearances, reviewing monitoring requests and requests for licensure, deliberating on stipulations, administrative warnings, proposed decisions and orders, consulting with Legal Counsel and considering Division of Enforcement case status reports. Roll call vote: Carolyn Bronston-yes; Jude Genereaux-yes; Jerold Harter-

yes; Sujatha Kailas-yes; Jack Lockhart-yes; Raymond Mager-yes; Ian Munro-yes; Gene Musser-yes; Sandra Osborn-yes; Bhupinder S. Saini-yes; Sheldon Wasserman-yes. Motion carried unanimously.

Open Session recessed at 10:26 a.m.

RECONVENE TO OPEN SESSION

MOTION: Raymond Mager moved, seconded by Carolyn Bronston, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 1:36 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION IF VOTING IS APPROPRIATE

MOTION: Bhupinder Saini moved, seconded by Jerold Harter, to reaffirm all motions made during closed session. Motion carried unanimously.

RATIFY LICENSES AND CERTIFICATES

MOTION: Bhupinder Saini moved, seconded by Jerold Mager, to ratify all licenses and certificates presented. Motion carried unanimously.

FULL BOARD ORAL EXAMINATION

GADJI N MOURTOUSALIEV, MD

Gadji N. Mourtousaliev, MD, appeared before the Board for a full board oral exam and interview.

MOTION: Sheldon Wasserman moved, seconded by Sandra Osborn, to deny licensure to Gadji N. Mourtousaliev, MD, as he failed all three parts of the oral exam. Motion carried unanimously.

SALAMULLAH U SYED, MD

Salamullah U. Syed, MD, appeared before the Board for a full board oral exam and interview. The Board deferred the examination and focused on the interview and asked Dr. Syed about the circumstances regarding his dismissal from the residency program. The Board asked DRL staff to contact the program director for additional information. A decision will be made after this information is received and reviewed.

REVIEW ADDITIONAL POST-GRADUATE TRAINING INFORMATION FOR MOHAMED ALFARIS, MD

MOTION: Sujatha Kailas moved, seconded by Bhupinder Saini, to grant a license to Mohamed Alfariis, MD. Motion carried unanimously.

DELIBERATION OF PROPOSED DECISIONS AND ORDERS

ELLIS AVNER, MD
(07 MED 290)

MOTION: Carolyn Bronston moved, seconded by Jerold Harter, to adopt the Findings of Fact, Conclusions of Law, Proposed Decision and Order in the matter concerning Ellis Avner, MD. Motion carried unanimously.

CHARLES VACLAVIK, DO
(08 MED 092 AND 09 MED 136)

MOTION: Bhupinder Saini moved, seconded by Jerold Harter, to adopt the Findings of Fact, Conclusions of Law, Proposed Decision and Order in the matter concerning Charles Vaclacik, DO. Motion carried unanimously.

ISSUANCE OF COMPLAINTS

06 MED 330

MOTION: Raymond Mager moved, seconded by Sandra Osborn, in favor of a finding of probable cause to issue a complaint in the matter of **06 MED 330**. Motion carried. Ian Munro was excused during deliberation and abstained from voting.

08 MED 286

MOTION: Carolyn Bronston moved, seconded by Jerold Harter, in favor of a finding of probable cause to issue a complaint in the matter of **08 MED 130**. Motion carried. Raymond Mager was excused during deliberation and abstained from voting.

08 MED 130

MOTION: Sujatha Kailas moved, seconded by Jerold Harter, in favor of a finding of probable cause to issue a complaint in the matter of **08 MED 130**. Motion carried unanimously.

**MOTION TO CLOSE THE HEARING IN THE MATTER OF THE
DISCIPLINARY PROCEEDINGS AGAINST JOHN P KISER, MD**

MOTION: Raymond Mager moved, seconded by Jerold Harter, to close the hearing in the disciplinary proceedings against John P. Kiser, MD. Motion carried. Ian Munro abstained.

DELIBERATIONS OF PETITIONS FOR SUMMARY SUSPENSION

KEVIN LANG, MD 09 MED 102

MOTION: Raymond Mager moved, seconded by Jude Genereaux, to adopt the order of summary suspension on the basis that the respondent's conduct poses imminent danger to the public in the matter of disciplinary proceedings against Kevin Lang, MD. Motion carried unanimously.

MOTION: Raymond Mager moved, seconded by Jude Genereaux, to indicate that the suspension is effective for 30 days from the date the Order is signed, to authorize the Administrative Law Judge (ALJ) to continue the suspension for an additional 30 days while the disciplinary matter is proceeding and to grant the ALJ the ability to continue the suspension until a Final Decision is issued by the Board. Motion carried unanimously.

JOSEPH A BESSO, JR, MD 09 MED 317

MOTION: Ian Munro moved, seconded by Raymond Mager, to adopt the petition for summary suspension on the basis that the respondent's conduct poses imminent danger to the public in the matter of disciplinary proceedings against Joseph A. Besso, Jr., MD. Motion carried.

MOTION: Ian Munro moved, seconded by Raymond Mager, to indicate that the suspension is effective for 30 days from the date the Order is signed, to authorize the Administrative Law Judge (ALJ) to continue the suspension for an additional 30 days while the disciplinary matter is proceeding and to grant the ALJ the ability to continue the suspension until a Final Decision is issued by the Board. Motion carried unanimously.

MONITORING

**CONSIDERATION OF FULL LICENSURE
SHELLY JOHNSON, MD**

MOTION: Sujatha Kailas move, seconded by Ian Munro, to remove the limitations and grant a full and unrestricted license to Shelly Johnson, MD. Motion carried unanimously.

**CONSIDERATION OF FULL LICENSURE
WILLIAM UBBINK, RCP**

MOTION: Carolyn Bronston moved, seconded by Bhupinder Saini, to remove the restrictions and grant a full license respiratory care practitioner license to William Ubbink, RCP. Motion carried unanimously.

**REQUEST FOR THREE-MONTH STAY OF SUSPENSION
RAYMOND KOZIAL, MD**

MOTION: Sandra Osborn moved, seconded by Carolyn Bronston, to grant a three-month stay of suspension to Raymond Kozial, MD. Motion carried. Sheldon Wasserman abstained.

**REQUEST FOR MODIFICATIONS OF ORDER
DAVID HANES, DO**

MOTION: Sandra Osborn moved, seconded by Sujatha Kailas, to grant the request for termination of therapy and to deny the request for a reduction in screens for David Hanes, DO. Motion carried unanimously.

CASE CLOSINGS

08 MED 286

MOTION: Carolyn Bronston moved, seconded by Ian Munro, to close case **08 MED 286** for no violation against W.S. and F.S. Motion carried unanimously.

06 MED 435

MOTION: Raymond Mager moved, seconded by Ian Munro, to close case **06 MED 435** for no violation. Motion carried unanimously.

08 MED 285

MOTION: Gene Musser moved, seconded by Ian Munro, to close case **08 MED 285** for insufficient evidence. Motion carried unanimously.

08 MED 282

MOTION: Raymond Mager moved, seconded by Ian Munro, to close case **08 MED 282** for no violation. Motion carried unanimously.

09 MED 159

MOTION: Raymond Mager moved, seconded by Bhupinder Saini, to close case **09 MED 159** for no violation. Motion carried unanimously.

08 MED 230

MOTION: Raymond Mager moved, seconded by Bhupinder Saini, to close case **08 MED 230** for no violation. Motion carried unanimously.

09 MED 240

MOTION: Ian Munro moved, seconded by Bhupinder Saini, to close case **09MED 240** for no violation. Motion carried unanimously

09 MED 271

MOTION: Sujatha Kailas moved, seconded by Ian Munro, to close case **09 MED 271** for P6. Motion carried unanimously

09 MED 318

MOTION: Raymond Mager moved, seconded by Jerold Harter, to close case **09 MED 318** for prosecutorial discretion/compliance gained. Motion carried unanimously

REQUEST FOR WAIVER OF CONTINUING EDUCATION REQUIREMENTS

G.K.

The board reviewed a request from G.K. for a waiver of the CE requirement.

MOTION: Sandra Osborn moved, seconded by Ian Munro, to grant the request for the waiver of the CE requirement for G.K.. Motion carried unanimously.

ADJOURNMENT

MOTION: Carolyn Bronston moved, seconded by Raymond Mager, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:38 p.m.

THE NEXT MEETING IS NOVEMBER 18, 2009 IN MARSHFIELD, WI